SINGLE BENCH

(3)

C.S. 1001/—

(5)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P. (C) NO. /2006

PETITIONER : Somaru Jaiswal (Village Assistant), S/o. Late Mohan Jaiswal, Aged about 55 years, R/o. Village Mahagai, Police Station Prem Nagar, District Surguja (Chhattisgarh)

VERSUS

RESPONDENTS : 1] State of Chhattisgarh, Through: Inspector, Minimum Wages Act, 1948, Labour Sub-Division, Ambikapur, District Surguja (Chhattisgarh)

P.R. No. 6359/06 U.A. Gravesham
Presented dated 15-11-06

2] Authority under Minimum Wages Act, Labour Court, Ambikapur, Surguja, District Surguja (Chhattisgarh)

RECEIVED-COPY 15/11/06 CLERK to A. G. BILASPUR

3] Tahsildar, Premnagar, Tahsil Surajpur, District Surguja (Chhattisgarh)

4] Jainath Singh, S/o. Jalu Singh, Aged about 38 years, R/o. Village Jamdih, Tahsil Ambikapur, District Surguja (Chhattisgarh)

5] Bilas S/o. Kunwar Sai, Aged about 42 years, R/o. Village Lachha, Police Station & Tahsil Surajpur, District Surguja (Chhattisgarh)

6] Shyamlal Singh S/o. Kusum Sai, Aged about 40 years, R/o. Village Lachha, Police Station & Tahsil Surajpur, District Surguja (Chhattisgarh)

7] Ahiraj S/o. Bhupsai, Aged about 45 years, R/o. Village Damaupur, Police Station Lakhanpur, Tahsil Ambikapur, District Surguja (Chhattisgarh)

8] Shivnarayan S/o. Charan, Aged about 32 years, R/o. Village Kalipur, Tahsil Surajpur, District Surguja (Chhattisgarh)

9] Sheshmani S/o. Ramlal, Aged about 42 years, R/o. Village Kalipur, Police Station Ramanujnagar, Tahsil Surajpur, District Surguja (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 226/[redacted] OF THE CONSTITUTION OF INDIA

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(53)

मामला क्रमांक W.P.No.6914 **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2/1/2007 Shri Manoj Paranjpe, counsel for the petitioner. Shri Sanjay S. Agrawal, G.A. for respondents No.1, 2 and 3. Heard. By this petition, the petitioner has challenged the legality and correctness of the order dated 31-10-2006 passed by the authority under Minimum Wages Act, Labour Court, Ambikapur in case No.28/2006 whereby the authority under Minimum Wages Act, Labour Court, Ambikapur, has rejected the application filed by the petitioner under Order 9 Rule 13 read with Section 5 of the Limitation Act for setting aside ex-parte order dated 27-2-99. Perusal of the application filed by the petitioner under Order 9 Rule 13 C.P.C. along with application under Section 5 of the Limitation Act reveals that in para-4 of the application, the petitioner has mentioned that before passing ex-parte order, no notice was received by the petitioner herein, even the signatures on the acknowledgement are not of him or his family members, same fact has been mentioned in the application filed under Section 5 of the Limitation Act. Both these applications are supported by the affidavit. In the circumstances, learned authority ought to have conducted an enquiry in order to ascertain whether the signatures on the acknowledgement are of the petitioner or not, in that connection, concerned postman ought to have been summoned or by comparing the undisputed signatures of the petitioner with the signatures on the acknowledgement or any other evidence in that connection. The impugned order has been passed by the authority without conducting any enquiry, therefore, this order is *ex-facie* illegal and same is liable to be quashed.	

P.T.O.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(54)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Therefore, at the admission stage itself, the writ petition is disposed of, the impugned order is quashed and the authority is directed to decide the application filed by the petitioner under Order 9 Rule 13 CPC read with Section 5 of the Limitation Act after conducting necessary enquiry into the fact whether, in fact, notice issued on the petitioner was served on the petitioner or not and pass further order ~~consequent to the impugned order~~.

In view of this order, M.(W.)P. No.4947/2006, I.A. Nos.11547/2006, &11548/2006 stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
Ag. Chief Justice

Barve

P.T.O.